IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 8849 of 2004

Between:

1. The Welfare Commissioner, Labour Welfare Organisation, Ministry of Labour, Kendriya Sadan, Sultan Bazar, Hyderabad.
2 The Director General (Labour Welfare) Government of India, Ministry of Labour, Jaisalmer House, New Delhi.
3 The Secretary to the Government of India, Government of India, Ministry of Labour, Shram Shakti Bhavan, New Delhi - 110 001.

..... PETITIONERS

AND

1 Shri G. Penchala Rao, S/o G.V. Subba Rao,
Senior Clerk, O/o Assistant Welfare Commissioner, 8/2A, Thomas Road, High Ground, Maharaja Nagar Post, Tirunelveli - 627 011 (Tamilnadu).
2 Shri K.V. Subba Reddy, Head Clerk-cum-Accountant, O/o The Welfare Commissioner, Labour Welfare Organisation, Ministry of Labour, Kendriya Sadan, Hyderabad.

(R-2 herein is not necessary party to this WP hence deleted)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of certiorari or any other appropriate writ, order or direction, calling for the records pertaining to O.A.No. 856 of 2003 on the file of the Hon'ble Central Administrative Tribunal , Hyderabad Bench, Hyderabad and quash the same as illegal, arbitrary, contrary to law and unconstitutional and declare the same as void abinitio, null and void and nonest in the eye of the law.

Counsel for the Petitioners : MR.A.RAJASHEKAR REDDY, (STANDING COUNSEL FOR CENTRAL GOVERNMENT)

Counsel for Respondent No.1: MR.G.VIDYA SAGAR

The Court made the following ORDER:(per TMK,J)

This writ petition is filed by the petitioners to call for the records pertaining to O.A.No.856 of 2003 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad and to quash the order, dated 9.1.2004, in the above O.A. as illegal.

The above O.A was filed by the 1st respondent herein praying to set aside the orders of reversion, dated 30.5.2002, passed by the 1st petitioner herein and consequently to direct the respondents therein to continue him as Head Clerk-cum-Accountant from the date of his reversion with all consequential benefits and further to award a sum of Rs.10,000/- as costs.

It is the case of the 1st respondent/applicant that he was promoted to the post of Head Clerk-cum-Accountant on 1.8.1997 on ad-hoc basis for a period of one year and the said ad-hoc appointment was extended year after year up to 31.10.2001. By order, dated 13.12.2001, the 1st respondent/applicant was informed that the competent authority has not extended the
ad-hoc appointment beyond 31.10.2001 due to some administrative reasons. But these orders were not given effect to by the 1st petitioner as would be evident from the fact that the 1st respondent/applicant continued to function as Head Clerk-cum-Accountant and was also transferred to the office of the Welfare Administrator, LWO, Kalichedu on 26.03.2002 in the same capacity as Head Clerk-cum-Accountant. The 1st petitioner issued orders on 30.5.2002 reverting the 1st respondent/ applicant to

the post of Senior Clerk. The 1st respondent/applicant made a representation, dated 16.7.2003, to the 1st petitioner and the 1st petitioner had intimated the 1st respondent/applicant vide letter dated 22.7.2003 that the reversion was due to the disciplinary proceedings pending against him. Aggrieved by the order of reversion, he filed the above O.A. The said O.A was allowed by the Tribunal observing as follows:

> "A reading of the various orders of the Ministry of Labour, Office of the Welfare Commissioner, Labour Welfare Organisation, Hyderabad, would leave no one in doubt that the orders reverting the applicant to the lower post of senior clerk after his having worked as Head Clerk-cum-Accountant on adhoc basis for more than 4 years is in clear violation of the instructions of the Department of Personnel & Training, Government of India, contained in OM.No.11012/9/86-Est.(A), dated 24.12.1986, wherein it has been clearly stipulated as follows:
>
> "Where the appointment was required to be made on adhoc basis purely for administrative reasons (other than against a short-term vacancy or a leave vacancy) and the Government servant has held the appointment for more than one year, if any disciplinary proceeding is initiated against the Government servant, he need not be reverted to the post held by him only on the ground that disciplinary proceedings has been initiated against him.
>
> Appropriate action in such cases will be taken depending on the outcome of the disciplinary case".
>
> This OM has been followed and succeeded by a repeated Supreme Court Judgments enforcing the above rules. Time and again it has also been reiterated that adhoc appointee could not be replaced by another adhoc appointee. All these rules have been given a go-bye in the case of the applicant herein. Therefore, his order of reversion, being violative of the guidelines/instructions of the DOPT and various Supreme Court Judgments in the matter, was obviously irregular. The orders to this effect are, therefore, set aside with directions to the respondents to restore the applicant to his promoted level of adhoc appointment to the post of Head Clerk-cum-Accountant with all consequential benefits from the date of his reversion".

As the Tribunal has rightly allowed the said O.A basing on the instructions of the Department of Personnel & Training, Government of India, contained in O.M.No.11012/9/86-Est.(A), dated 24.12.1986, and as the 1st respondent/applicant

was promoted only on ad-hoc basis, we do not find any reason to interfere with the order of the Tribunal.

The writ petition is accordingly dismissed. No costs.

(T.MEENA KUMARI, J)

(S.ANANDA REDDY, J)

24.01.2005

bsv/lvl

TO

1. The Welfare Commissioner, Labour Welfare Organisation, Ministry of Labour, Kendriya Sadan, Sultan Bazar, Hyderabad.
2 The Director General (Labour Welfare) Government of India, Ministry of Labour, Jaisalmer House, New Delhi.
3 The Secretary to the Government of India, Government of India, Ministry of Labour, Shram Shakti Bhavan, New Delhi - 110 001.

4 Two CD copies